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CITY AND COUNTY OF SAN FRANCISCO
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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO - UNLIMITED JURISDICTION

11 SF URBAN FOREST COALITION, a
12 California not-for-profit corporation,

13 Petitioner,

14 vs.

15 CITY AND COUNTY OF SAN FRANCISCO,
a charter city and county, SAN FRANCISCO
16 COUNTY TRANSPORTATION
AUTHORITY, an agency and department of the
17 City and County of San Francisco. TILLY
CHANG, its Executive Director and CYNTHIA
18 FONG, its Deputy Director for Finance and
Administration, officials of the City and County
19 of San Francisco, and DOES I through XX,
inclusive,

20 Respondents.
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ELECTRONICALLY
FILED

*Superior Court of California,
County of San Francisco*

02/27/2018

Clerk of the Court

BY: VANESSA WU

Deputy Clerk

Case No. CPF-18-516020

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
RESPONDENT CITY AND COUNTY OF SAN
FRANCISCO'S OPPOSITION TO PETITION
FOR WRIT OF MANDAMUS**

Hearing Date: March 8, 2018
Hearing Judge: Hon. Harold Kahn
Time: 9:30 a.m.
Place: Dept. 302

Date Action Filed: January 23, 2018

1 Petitioner San Francisco Urban Forest Coalition (“SFUFC”) acknowledges that it has brought
2 this writ action “simply to obtain disclosure by Respondents San Francisco County Transportation
3 Authority (‘SFCTA’) and its Executive Director, Tilly Chang ... of withheld public records” related
4 to an SFCTA meeting that occurred in January 2017. (SFUFC Mem. of Pts. & Auth. [“Pet. MPA”] at
5 1:2-7.) Yet SFUFC insists, erroneously, that this lawsuit also involves the City and County of San
6 Francisco (“the City”). SFUFC has named the City as a respondent in the action, and the relief
7 SFUFC seeks in its writ petition includes a declaration “that Respondent SFCTA is a part of the City
8 and County of San Francisco and subject to the provisions of the San Francisco Sunshine Ordinance,
9 San Francisco Administrative Code Chapter 67.” (Petition, p. 20.)

10 Because this public records action only seeks disclosure of records of SFCTA, the City is
11 largely a bystander here. Moreover, because the City understands that SFCTA has already produced
12 all of the documents in dispute to Petitioner, the dispute appears to the City to be wholly moot, and the
13 Court need not – and, hence should not – rule upon Petitioner’s contention that SFCTA is an agency of
14 the City and County of Francisco (or issue any other substantive relief).

15 Nevertheless, the City submits this brief in order to emphasize that Petitioner’s contention that
16 SFCTA is a part of the City and is subject to the City’s Sunshine Ordinance is wholly erroneous.
17 SFCTA is not an agency of the City and County of San Francisco, but rather is a separate legal entity,
18 distinct from the City, created and governed pursuant to state statute. The issue is not merely
19 academic, but rather is important to the ongoing functioning of the two entities. It is vital that the
20 Court not be misled as to the fact that SFCTA is legally distinct from the City, and that the Court not
21 issue any orders or award any other relief suggesting that SFCTA is an agency of the City and County
22 of San Francisco, because to do so could easily create considerable confusion and have unanticipated
23 negative consequences going forward, with respect to all manner of SFCTA and City operations.

24 **I. SFCTA IS AN AGENCY OF THE STATE, NOT OF THE CITY AND COUNTY OF**
25 **SAN FRANCISCO**

26 The SFCTA is a special funding district created pursuant to California’s Bay Area County
27 Traffic and Transportation Funding Act, found at California Public Utilities Code Section 131000 *et*
28 *seq.* The Bay Area County Traffic and Transportation Funding Act

1 was adopted in 1986 after the Legislature found that the Bay Area was
2 experiencing “serious traffic congestion and transit mobility problems that
3 threaten the economic viability of the area and adversely impact the quality of
4 life therein.” (§ 131001, subd. (a).) The Legislature addressed this problem by
5 establishing a framework whereby “the counties and cities within the nine-
6 county San Francisco Bay area” could “collectively develop and implement, on
7 a county-by-county basis, near-term local traffic and transportation projects that
8 responsibly and adequately deal with current and anticipated traffic congestion
9 and transit mobility problems.” (§ 131001, subd. (c).)

6 (*Hayward Area Planning Association, Inc. v. Alameda County Transportation Authority* (1999) 72
7 Cal.App.4th 95, 99.) To this end, the Act “authorized the voters in each of the designated Bay Area
8 counties to create a ‘county transportation authority’ in order to ‘implement a retail transactions and
9 use tax for the purpose of funding a local transportation expenditure plan’ (§ 131001, subd. (e).)”
10 (*Id.*)

11 It is California’s Public Utilities Code – and not any City law – that specifies the powers and
12 duties of every county transportation authority, including the SFCTA. The Public Utilities Code
13 mandates, for example, that every county transportation authority:

- 14 • May sue and be sued. (Pub.Util.Code § 131281.)
- 15 • “[M]ay make contracts and enter into stipulations of any nature to indemnify and hold
16 harmless, to employ labor, and to do all acts necessary and convenient for the full
17 exercise of the powers granted in this chapter.” (Pub.Util.Code § 131283.)
- 18 • “[M]ay contract with ... any transit district, county, or city,” including the City and
19 County of San Francisco, “upon terms and conditions that the county transportation
20 authority finds is in its best interest.” (Pub.Util.Code § 131284.)

21 Under the Bay Area County Traffic and Transportation Funding Act, every county
22 transportation authority – including the SFCTA – has its own budget (Pub.Util.Code § 131265(a);
23 § 131266), its own administrative code (§ 131265(b)), and its own staff (§ 131107). Every county
24 transportation authority may provide for the retirement of its employees. (*Id.*, § 131269.)

25 Petitioner argues that the SFCTA must be an agency of the City because the SFCTA’s
26 commission is composed of the individuals who also are members of San Francisco’s Board of
27 Supervisors. But that is of no significance. “[w]ell-established and well-recognized case law holds
28 that “the mere fact that the same body of officers acts as the legislative body of two different

1 governmental entities does not mean that the two different governmental entities are, in actuality, one
2 and the same.” (*Pacific States Enterprises, Inc. v. City of Coachella*, (1993) 13 Cal. App. 4th 1414,
3 1424 [Coachella Redevelopment Agency is legally distinct entity from City of Coachella, even though
4 individuals making up City Council also make up Redevelopment Agency Commission].) The
5 composition of the SFCTA Commission is the result of state law, within San Francisco as in any other
6 Bay Area county that has chosen to have a county transportation authority.

7 SFCTA, therefore, is a creature of state statute, not of local law, both in its creation and in its
8 operations. As such, SFCTA exercises authority that is conferred by the Legislature, not authority that
9 arises from San Francisco’s own municipal charter. SFCTA acts as a local agent of the State to plan
10 and oversee local transportation initiatives. It is not an agency of the City and County of San
11 Francisco, and thus is not subject to the City’s Sunshine Ordinance.

12 **II. PETITIONER’S REQUEST FOR A WRIT DIRECTED AT THE DIRECTOR OF THE**
13 **SAN FRANCISCO ETHICS COMMISSION IS GROUNDLESS AND SHOULD BE**
14 **REJECTED**

15 In the prayer for relief in its writ petition, Petitioner asks that this Court, *inter alia*, issue a
16 peremptory writ of mandate “directing the Respondent Executive Director of the San Francisco Ethics
17 Commission to immediately deliver to the Petitioner copies of all records improperly withheld by the
18 Respondents.” (Petition, at 20:24-26.) Since the Petition does not name the Executive Director of the
19 San Francisco Ethics Commission, or any other City official, as a Respondent, we assume that this
20 portion of Petitioner’s relief request was included in error. Moreover, since we understand that
21 SFCTA has already provided Petitioner with all of the documents in question, the dispute appears to
22 be moot, and there is no ground for the Court to direct the issuance of any documents. However,
23 should Petitioner genuinely seek the issuance of a writ directed to the Executive Director of the San
24 Francisco Ethics Commission, the Court should not issue such a writ, because Petitioner has not even
25 pleaded, much less demonstrated, that that official possesses any relevant documents or has any role or
26 authority in the dispute between Petitioner and the SFCTA.
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1 Dated: February 27, 2018

2 DENNIS J. HERRERA
3 City Attorney
4 WAYNE SNODGRASS
5 Deputy City Attorney

6 By: /s/ Wayne Snodgrass
7 WAYNE SNODGRASS

8 Attorneys for Respondent
9 CITY AND COUNTY OF SAN FRANCISCO
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PROOF OF SERVICE

I, HOLLY CHIN, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney's Office of San Francisco, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 234, San Francisco, CA 94102.

On February 27, 2018, I served the following document(s):

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF RESPONDENT CITY
AND COUNTY OF SAN FRANCISCO'S OPPOSITION TO PETITION FOR WRIT OF
MANDAMUS**

on the following persons at the locations specified:

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Tilly Chang, and Cynthia Fong

in the manner indicated below:

☒ **BY ELECTRONIC SERVICE:** Pursuant to San Francisco Superior Court Local Rule 2.10 and California Rules of Court 2.253(b)(2), I caused the documents to be served electronically through **File & ServeXpress** in portable document format ("PDF") Adobe Acrobat.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed February 27, 2018, at San Francisco, California.



HOLLY CHIN